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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Application Serial No. 76/390,737
Published in the Official Gazette on November 12, 2002

01-30-2003

U.S. Patent & TMO/TM Mail Rpt. Dt. #40

NO DOUBT,

Opposer

-against-

PRO SELECT, INC.,

Applicant.

Opposition No. _____

02/12/2003 KGBBONS 00000074 76390737

01 FC:6402

300.00 DP

NOTICE OF OPPOSITION

Opposer No Doubt, a California general partnership with an address at 450 North Roxbury Drive, 8th Floor, Beverly Hills, California 90210, believes that it will be damaged by registration of the mark NO DOUBT which is the subject of Application Serial No. 76/390,737, published in the Official Gazette on November 12, 2002, and therefore opposes same.

As grounds for the opposition, Opposer alleges as follows:

1. Opposer has continuously used the trademark NO DOUBT in interstate commerce since at least as early as July 21, 1987 for entertainment services in the nature of live performances by a musical group; 1989 for clothing, namely, caps, shirts, pants, shorts and jackets; 1995 for publications, namely, posters, calendars and photographs; and 1997 for and ornamental novelty badges and pins, and cloth patches for clothing.
2. Opposer owns the following U.S. federal trademark registrations for NO DOUBT: Reg. No. 2,416,708 in Int. Cl. 16, 25, 26 and 41 and Reg. No. 2,124,089 in Int. Cl. 25.
3. Opposer's immensely popular music group has released six albums, three of which have been certified "platinum" for sales of one million or more copies. Opposer has

staged concert tours throughout the United States, is heard regularly on nationwide radio, is seen on MTV and other television stations, and has been the subject of countless newspaper and magazine articles. Merchandise featuring Opposer's NO DOUBT mark is sold at concerts, music and retail stores and on the Internet at Opposer's www.nodoubt.com web site. As a result of this enormous use and promotion of the NO DOUBT mark in commerce, commencing in this country in 1987, the NO DOUBT trademark is famous.

4. Applicant Pro Select, Inc. has applied to register the mark NO DOUBT for "golf clubs, golf club head covers, golf bags, and golf balls" in Int. Cl. 28.

5. Applicant's application was based on intent to use with a filing date of April 1, 2002. Upon information and belief, no use of the mark in commerce was made prior to April 1, 2002. Accordingly, Opposer has priority with respect to its use of the mark NO DOUBT.

6. The goods identified in Applicant's application for NO DOUBT, Serial No. 76/390,737, are closely related to the Opposer's goods sold and services offered under the mark NO DOUBT, and which goods and services are the subject of Opposer's federal registrations. The marks are identical in appearance, visual impression, pronunciation and meaning.

7. The mark NO DOUBT as set forth in application Serial No. 76/390,737, is identical to Opposer's previously used and registered mark NO DOUBT for highly similar goods as to be likely to cause confusion, or to cause mistake, or to deceive the public. The public is likely to believe that Applicant's goods are approved, endorsed, or sponsored by Opposer, or that Opposer is the source of Applicant's goods, or that the goods of Applicant are in some other way associated with Opposer, all to Opposer's grave injury and harm. This constitutes a violation of Section 2(d) of the Lanham Act, 15 U.S.C. §1052(d).

8. Moreover, because Opposer's NO DOUBT mark is famous, Applicant's use and registration of an identical mark for closely related goods will dilute the distinctiveness of Opposer's mark by blurring.

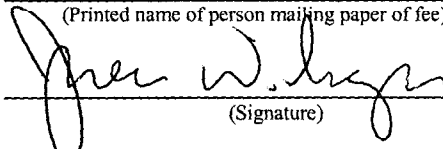
9. The registration of Applicant's mark is inconsistent with Opposer's prior rights in the NO DOUBT mark and is inconsistent with Opposer's statutory grant of exclusivity of use of the registered NO DOUBT mark, and would destroy Opposer's investment and goodwill in its NO DOUBT mark. Accordingly, Applicant's use and registration of the mark NO DOUBT is in violation of Section 43(c) of the Lanham Act, 15 USC §1125(c).

WHEREFORE, it is respectfully requested that this opposition be sustained and that the registration sought by application Serial No. 76/390,737 be denied.

The Notice of Opposition is filed in duplicate. Opposer's check in the amount of \$300 is enclosed. Should this amount be insufficient for any reason, please charge deposit account number 23-0825.

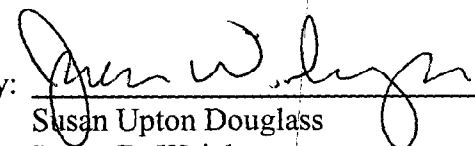
Dated: New York, New York
January 30, 2003

"Express Mail" mailing label No. EL 718087752 US
Date of Deposit: January 30, 2003
I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513.

James D. Weinberger
(Printed name of person mailing paper of fee)

(Signature)

Respectfully submitted,

FROSS ZELNICK LEHRMAN & ZISSU, P.C.

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